

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the matter of the application of)	
MICHIGAN GAS UTILITIES CORPORATION)	
for an Act 9 certificate of public convenience and)	Case No. U-20853
necessity to construct a replacement pipeline)	
in Calhoun County, Michigan.)	
_____)	

At the February 18, 2021 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Daniel C. Scripps, Chair
Hon. Tremaine L. Phillips, Commissioner
Hon. Katherine L. Peretick, Commissioner

ORDER APPROVING SETTLEMENT AGREEMENT

On August 5, 2020, Michigan Gas Utilities Corporation (MGUC) filed an application, with supporting testimony and exhibits, pursuant to Public Act 9 of 1929, MCL 483.101 *et seq.* (Act 9) and applicable administrative rules, for a certificate of public convenience and necessity to construct and operate a natural gas transmitter pipeline to replace the aging Partello transmission pipeline in Calhoun County, Michigan, that, according to MGUC, must be discontinued, abandoned, and replaced to address safety and reliability concerns. As stated by MGUC, the proposed replacement pipeline, approximately 15 miles in length and consisting of 10-inch nominal diameter, will operate from the Partello Compressor Facility in the Northeast ¼ of Section 13, Town 1 South, Range 5 West of Lee Township to the Vector Pipeline Marshall Station interconnect in the Northeast ¼ of Section 1, Town 3 South, Range 6 West in the City of Marshall,

with an anticipated in-service date in 2022 and an estimated cost of approximately \$19.1 million to be addressed in a future general rate case.

On September 23 and October 22, 2020, prehearing conferences were held before Administrative Law Judge Martin D. Snider. MGUC and the Commission Staff participated in the proceedings.

On January 28, 2021, an evidentiary hearing was held, at the request of the parties to admit MGUC's pre-filed direct testimony and exhibits into the record. Subsequently, the parties filed a settlement agreement resolving all issues in the case.

The Commission has reviewed the settlement agreement and finds that the public interest is adequately represented by the parties who entered into the settlement agreement. The Commission further finds that the settlement agreement is in the public interest, represents a fair and reasonable resolution of the proceeding, and should be approved.

The Commission additionally finds that the map, route, and type of construction, as reflected in the application and agreed to in the settlement agreement, are reasonable and should be approved, subject to minor route deviations that MGUC may find necessary during actual construction. As agreed by the parties, minor route deviations shall be limited to alterations in locations which do not involve the impact of additional landowners unnoticed in this case. The Commission finds that the proposed replacement pipeline is needed to replace the aging Partello transmission pipeline, for the continued transportation of natural gas from the Partello Compressor Facility to the Vector Pipeline Marshall Station, and that the proposed replacement pipeline will thus, when constructed and in operation, serve the convenience and necessity of the public.

As set forth in testimony and exhibits, 84% of the proposed route for the replacement pipeline lies within permanent easement, with 16% located in or along road right-of-way, and, to the

greatest extent possible, the proposed replacement pipeline will follow the aging Partello transmission pipeline to be replaced. 3 Tr 32; Exhibit A-3. The environmental report, set forth in Exhibit A-5, also concluded that construction of the proposed replacement pipeline would result in some temporary or short-term impacts on resources, with long-term impacts limited to new corridors in woodland areas, but also discussed specific construction mitigation measures that will be employed to minimize the adverse impacts of the project. The environmental report further discussed MGUC's determination that the company's selected route is the most practical, cost-effective, and least intrusive method to maintain service reliability.

Given the above, the Commission finds that there will be minor impairment to the environment if the replacement pipeline is constructed as proposed but that there is no other feasible and prudent alternative to this impairment and that any environmental impairment caused by the proposed replacement pipeline is *de minimis* and consistent with the promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its natural resources from pollution, impairment, or destruction. The Commission further finds that the filed application, testimony, exhibits, and settlement agreement support and satisfy the required agency review and environmental obligations of the Commission that arise from the Michigan Environmental Protection Act (MEPA), MCL 324.1701 *et seq.*, and the Michigan Supreme Court's application of MEPA in *Mich State Hwy Comm v Vanderkloot*, 392 Mich 159, 185; 220 NW2d 416 (1974). The Commission notes, however, that a finding of public convenience and necessity pursuant to Act 9 is not a determination that the proposed project complies with any other applicable statute or environmental reviews.

THEREFORE, IT IS ORDERED that:

A. The settlement agreement, attached to this order as Exhibit A, is approved.

B. Within 60 days after completion of construction, and in accordance with the settlement agreement, Michigan Gas Utilities Corporation shall file a completion report containing “as built” maps of the constructed replacement pipeline and pressure test data.

C. If Michigan Gas Utilities Corporation provides transportation for others, it shall file with the Commission signed transportation contracts and shall provide transportation in a nondiscriminatory manner.

D. Upon abandonment or deactivation, the pipelines shall be abandoned in accordance with the Michigan Gas Safety Standards, MCL 483.151 *et seq.*

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26. To comply with the Michigan Rules of Court's requirement to notify the Commission of an appeal, appellants shall send required notices to both the Commission's Executive Secretary and to the Commission's Legal Counsel.

Electronic notifications should be sent to the Executive Secretary at mpscedockets@michigan.gov and to the Michigan Department of the Attorney General – Public Service Division at pungpl@michigan.gov. In lieu of electronic submissions, paper copies of such notifications may be sent to the Executive Secretary and the Attorney General – Public Service Division at 7109 W. Saginaw Hwy., Lansing, MI 48917.

MICHIGAN PUBLIC SERVICE COMMISSION

Daniel C. Scripps, Chair

Tremaine L. Phillips, Commissioner

Katherine L. Peretick, Commissioner

By its action of February 18, 2021.

Lisa Felice, Executive Secretary

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In the matter of the application of)	
MICHIGAN GAS UTILITIES CORPORATION)	
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<hr/>)	

SETTLEMENT AGREEMENT

Pursuant to Section 78 of the Administrative Procedures Act of 1969, as amended, MCL 24.278 and Rule 431 of the Michigan Administrative Hearing System’s Administrative Hearing Rules, R 792.10431, Michigan Gas Utilities Corporation (“MGUC” or the “Company”) and the Michigan Public Service Commission Staff (“Staff”) agree as follows:

1. On August 5, 2020, MGUC, pursuant to 1929 PA 9, MCL 483.101 *et seq.*, (“Act 9”) and Rule 31 of the Filing Procedures for Electric, Water, Steam, and Gas Utilities, R 460.2031(1), filed its application and supporting testimony and exhibits (“August 5 Application”) for a Certificate of Public Convenience and Necessity to Construct and Operate a natural gas transmitter pipeline to replace the aging Partello Transmission pipeline in Calhoun County, Michigan (hereafter referred to as the “Replacement Pipeline”).

2. On August 24, 2020, the Michigan Public Service Commission (“MPSC” or the “Commission”) issued its Notice of Hearing scheduling a prehearing conference for September 23, 2020. MGUC was directed to mail the Notice of Hearing to each landowner from whom it had not acquired property rights for the Replacement Pipeline, and to all cities, incorporated villages,

townships and counties which may be traversed by the Replacement Pipeline. Additionally, MGUC was directed to have the Notice of Hearing published in a daily newspaper of general circulation in Calhoun County and in the Michigan Oil and Gas News.

3. On September 21, 2020, MGUC filed its proof of mailing and affidavit of publication from the Michigan Oil and Gas News.

4. At the September 23, 2020 prehearing conference, Administrative Law Judge (“ALJ”) Martin D. Snider presided, and MGUC and the Staff were in attendance. There were no intervenors. At that time, the Company advised the ALJ and Staff that the Notice of Hearing had not been published in a daily newspaper of general circulation in Calhoun County. To remedy this noticing issue, the ALJ and the parties agreed to schedule a second prehearing conference for October 22, 2020, and to make publication in Calhoun County, in order to give interested parties the opportunity to participate.

5. On October 6, 2020, MGUC filed the affidavit of publication from the Battle Creek Enquirer reflecting publication of the Notice of Hearing for October 22, 2020, as agreed to by the ALJ and the parties.

6. On October 22, 2020, the second prehearing conference in this matter was held with ALJ Snider presiding and MGUC and Staff in attendance. There were no intervenors.

7. On January 28, 2021, a hearing was held with ALJ Snider presiding and the direct testimony of the Company’s witnesses was bound into the record and their exhibits admitted into evidence, by party agreement and without cross-examination.

8. Staff has reviewed the Company’s filings in this proceeding with a focus on the project route, necessity, engineering specifications, and environmental impact. Staff has worked with the Company to obtain additional information via discovery requests.

9. The parties have engaged in settlement discussions and have settled on all contested issues in Case No. U-20853 as follows:

- A. The parties agree that it is in the public convenience and necessity for MGUC to construct and operate a natural gas transmission pipeline to replace the aging Partello Transmission pipeline, the Replacement Pipeline, operating from the Partello Compressor Facility to the Vector Pipeline Marshall Station interconnect in Marshall, Michigan. The Replacement Pipeline will be approximately 15 miles, 10-inch nominal diameter and take the following route: Beginning at the Partello Compressor Facility in the Northeast $\frac{1}{4}$ of Section 13, Town 1 South, Range 5 West of Lee Township, SW for 1.25 miles to R Dr., W along R Dr. for 1.18 miles, SW for 1.4 miles to P Dr., W along P Dr. for 0.5 miles to 21 Mile Rd., S along 21 Mile Rd. for 1 mile to N Dr., SW for 1.35 miles to L Dr., S along 20 Mile Rd. for 2.85 miles to G Dr., E along G Dr. for 0.22 miles, S along 20 Mile Rd. for 2.78 miles to B Dr., and 2.41 miles in cross country easement ending at the Marshall Station in the Northeast $\frac{1}{4}$ of Section 1, Town 3 South, Range 6 West, City of Marshall, Calhoun County, Michigan.
- B. The parties agree that MGUC's August 5 Application satisfies the requirements of Act 9.
- C. The parties agree that MGUC will construct and operate the Replacement Pipeline in a manner that meets or exceeds applicable codes, standards, and construction practices, including those contained in the Michigan Gas Safety Standards, MCL 483.152 *et seq.*

- D. The parties agree that the Replacement Pipeline will serve the public interest, as it is necessary for the replacement of the aging Partello Transmission line and the continued necessary transportation of natural gas from the Partello Compressor Facility to the Vector Pipeline Marshall Station interconnect. The proposed route, as described in paragraph 9A herein, provides the most direct, reasonable, and economical route.
- E. MGUC has undertaken an environmental assessment for the Replacement Pipeline. The parties agree that the construction of the Replacement Pipeline will have no significant adverse impact on the environment and that any impairment to the environment resulting from the installation will be *de minimis* and is consistent with the promotion of the public health, safety, and welfare in light of the State of Michigan's paramount concern for the protection of its natural resources from pollution, impairment, or destruction. A copy of the Environmental Impact Report is Exhibit A-5. The parties agree that the Commission should find that the direct testimony of Rick J. Moser and Exhibit A-5 satisfy the required agency review and environmental obligations that inure from the Michigan Environmental Protection Act, Part 17 of the Natural Resources Environmental Protection Act, MCL 314.101 *et seq.*, ("MEPA") and the Michigan Supreme Court's application of MEPA in *State Hwy Comm v Vanderkloot*, 392 Mich 159 (1974). This does not bind the findings and determination of the applicable state and county authorities referenced in paragraph 9G herein.

- F. The parties agree that the Replacement Pipeline is designed and routed in a reasonable manner. It is understood that the Replacement Pipeline will be constructed within existing right-of-way and private property owned, or to be acquired prior to the commencement of project construction, by MGUC. It is further agreed that the Commission should approve the Replacement Pipeline as proposed but allow for minor route deviations within MGUC property or with the consent of private landowners. Minor route deviations shall be limited to alterations in locations which does not involve the impact of additional unnoticed landowners to this case.
- G. MGUC will obtain all applicable environmental and other permits from applicable state and county agencies and authorities prior to construction for the construction and operation of the Replacement Pipeline.
- H. MGUC has also agreed to:
- 1) Prior to construction, to provide the latest Replacement Pipeline route in a .kmz file and any written construction easement agreements.
 - 2) Within 60 days after completion of the construction of the Replacement Pipeline, submit to the Commission a completion report containing “as built” maps and results of the pipeline pressure test.
- I. The parties agree that the abandonment or deactivation of the existing Partello Transmission pipeline, and abandonment or deactivation of the

Replacement Pipeline, will be in accordance with the Michigan Gas Safety Standards, MCL 483.151 *et seq.*

- J. Given the record in this case and the understanding reached herein, the parties agree that the Commission should approve MGUC's request for authority to construct and operate the Replacement Pipeline and should determine that such line, when constructed and operated, will serve the convenience and necessities of the public.

10. This settlement agreement is entered into for the sole and express purpose of reaching a compromise among the parties. All offers of settlement and discussions relating to this settlement are considered privileged under MRE 408.

11. This settlement agreement is based on the facts and circumstances of this case and is intended for final disposition of Case No. U-20853. So long as the Commission approves this settlement agreement without modification, the parties agree not to appeal, challenge or otherwise contest the Commission order approving this settlement agreement.

12. The settlement agreement is not severable. Each provision of this settlement agreement is dependent upon all other provisions of this settlement agreement. If the Commission rejects or modifies this settlement agreement or any provision of this settlement agreement, this settlement agreement will be deemed to be withdrawn, shall not constitute any part of the record in this proceeding or be used for any other purpose, and shall be without prejudice to the pre-negotiation positions of the parties.

13. The parties agree that approval of the settlement agreement by the Commission will aid in the expeditious resolution of this proceeding and would be reasonable, prudent and in the public interest.

14. The parties agree to waive Section 81 of the APA, MCL 24281, as it applies to the issues resolved by this settlement agreement, if the Commission approves this settlement agreement without modification.

MICHIGAN GAS UTILITIES CORPORATION

Dated: February 1, 2021

By: **Sherri Wellman**
Digitally signed by: Sherri Wellman
DN: CN = Sherri Wellman email =
wellmans@millercanfield.com C = AD O = Miller
Canfield
Date: 2021.02.01 09:31:33 -05'00'

Its Attorney
Sherri A. Wellman (P38989)
MILLER, CANFIELD, PADDOCK AND STONE, P.L.C.
One Michigan Avenue, Suite 900
Lansing, Michigan 48933
(517) 487-2070

MICHIGAN PUBLIC SERVICE COMMISSION STAFF

Dated: February 1, 2021

By: **Michael J. Orris**
Michael J. Orris
2021.02.01
11:23:17 -05'00'

Its Attorney
Michael J. Orris (P51232)
Assistant Attorney General
Public Service Division
7109 W. Saginaw Highway, 3rd Floor
Lansing, MI 48917
(517) 284-8140

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PROOF OF SERVICE

STATE OF MICHIGAN)

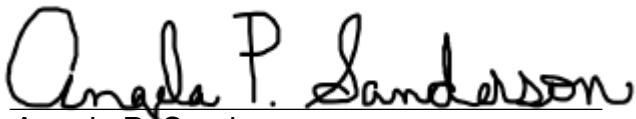
Case No. U-20853

County of Ingham)

Brianna Brown being duly sworn, deposes and says that on February 18, 2021 A.D. she electronically notified the attached list of this **Commission Order via e-mail transmission**, to the persons as shown on the attached service list (Listserv Distribution List).


Brianna Brown

Subscribed and sworn to before me
this 18th day of February 2021.



Angela P. Sanderson
Notary Public, Shiawassee County, Michigan
As acting in Eaton County
My Commission Expires: May 21, 2024

Service List for Case: U-20735

Name

Email Address

Jonathan Thoits

thoitsj@michigan.gov